

IN THE SENATE

SENATE BILL NO. 1143, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO DOGS; AMENDING SECTION 25-2803, IDAHO CODE, TO PROVIDE FOR ALTERNATIVE MEANS OF IDENTIFICATION; REPEALING SECTION 25-2804, IDAHO CODE, RELATING TO DOGS WITHOUT COLLARS AND TAGS; REPEALING SECTION 25-2805, IDAHO CODE, RELATING TO DOGS RUNNING AT LARGE; AMENDING CHAPTER 28, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2805, IDAHO CODE, TO PROVIDE FOR THE SEIZURE AND IMPOUNDMENT OF DOGS RUNNING AT LARGE, TO PROVIDE FOR VIOLATION AND PENALTY, TO CLARIFY APPLICABILITY, TO PROVIDE A WAITING PERIOD DURING WHICH TIME AN OWNER MAY RECLAIM A DOG PRIOR TO THE DOG BEING HUMANELY KILLED OR TRANSFERRED TO ANOTHER PARTY AND TO PROVIDE THAT CERTAIN HOUSING OF A DOG BY THE SHERIFF OR HIS DELEGATE SHALL CONSTITUTE REASONABLE EFFORT TO LOCATE THE OWNER; REPEALING SECTION 25-2806, IDAHO CODE, RELATING TO LIABILITY; AMENDING CHAPTER 28, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2806, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FOR LIABILITY REGARDING DOGS ATTACKING OR KILLING ANIMALS, TO PROVIDE FOR THE APPLICABILITY OF ADDITIONAL PROVISIONS IN CERTAIN SITUATIONS, TO PROVIDE FOR SEVERABLE LIABILITY AND TO PROVIDE FOR VIOLATIONS AND PENALTIES; AMENDING SECTION 25-2808, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING CHAPTER 28, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2809, IDAHO CODE, TO PROVIDE FOR DEFENSE AGAINST DOG ATTACKS, TO CLARIFY A QUALIFICATION AND TO PROVIDE AN EXCEPTION; AMENDING CHAPTER 28, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2811, IDAHO CODE, TO PROVIDE FOR THE DESIGNATION OF DANGEROUS DOGS AND AT-RISK DOGS, TO CLARIFY PROOF REQUIREMENTS IN THE PROSECUTION OF CERTAIN ACTIONS, TO DEFINE TERMS, TO PROVIDE THAT CERTAIN PROOF SHALL NOT BE REQUIRED IN PROCEEDINGS, TO PROVIDE EXCEPTIONS, TO PROVIDE THAT COURTS MAY ORDER CERTAIN DOGS BE KILLED, TO PROVIDE FOR RESTRICTIONS AND REQUIREMENTS, TO PROVIDE FOR THE WAIVER OF RESTRICTIONS AND REQUIREMENTS, TO PROVIDE FOR VIOLATIONS AND TO PROVIDE FOR IMPOUNDMENT; AMENDING CHAPTER 28, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2813, IDAHO CODE, TO PROVIDE FOR VIOLATIONS AND PENALTIES; AMENDING CHAPTER 28, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2814, IDAHO CODE, TO PROVIDE FOR THE LOCAL REGULATION OF CERTAIN DOGS; AND AMENDING CHAPTER 28, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2815, IDAHO CODE, TO PROVIDE FOR SEVERABILITY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 25-2803, Idaho Code, be, and the same is hereby amended to read as follows:

25-2803. DOGS AT LARGE -- COLLAR AND TAG OR ALTERNATIVE MEANS OF IDENTIFICATION REQUIRED. No dog shall be permitted to go at large within the said county without having a collar about its neck with a license tag or disc

1 attached thereto bearing the number of the license issued by the county as
2 herein set forth, or by some municipality within said county. Nothing in
3 this section shall preclude a county or municipality from allowing alter-
4 native means of identification including, but not limited to, microchip
5 implantation, as an alternative to requiring collar and tag. A violation
6 of this section is an infraction punishable as provided in section 18-113A,
7 Idaho Code.

8 SECTION 2. That Section [25-2804](#), Idaho Code, be, and the same is hereby
9 repealed.

10 SECTION 3. That Section [25-2805](#), Idaho Code, be, and the same is hereby
11 repealed.

12 SECTION 4. That Chapter 28, Title 25, Idaho Code, be, and the same is
13 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
14 ignated as Section 25-2805, Idaho Code, and to read as follows:

15 25-2805. DOGS RUNNING AT LARGE -- IMPOUNDMENT -- PENALTY. (1) The
16 sheriff of the county may seize and impound any dog running at large.

17 (2) Any person who willfully or negligently permits any dog owned or
18 possessed or harbored by him to be, or run, at large without a responsible at-
19 tendant or master, within the limits of any city, town or village or in the
20 vicinity of any farm, pasture, ranch, dwelling house, cultivated lands of
21 another, or public lands or who willfully or negligently fails, neglects or
22 refuses to keep any such dog securely confined within the limits of his own
23 premises when not under the immediate care and control of a responsible at-
24 tendant or master, shall be guilty of an infraction punishable as provided in
25 section 18-113A, Idaho Code. This provision shall not apply to any dog that
26 is actively working as a herding dog, herd guarding dog, bear or cougar dog,
27 or hunting dog, in any place where it may lawfully be, that is under the rea-
28 sonable control of an owner or handler.

29 (3) No dog impounded pursuant to this section shall be killed, or owner-
30 ship thereof transferred to another party, before five (5) days have elapsed
31 from the time of the taking up of the dog. Only days in which the facility
32 wherein the dog is impounded is open to the public shall be counted in the
33 calculation of the five (5) day period. The owner may recover possession of
34 the dog during that time upon payment of costs and any pertinent fines estab-
35 lished by local ordinance. After the five (5) days have elapsed and a reason-
36 able effort has failed to locate the owner, the sheriff or his delegate may
37 kill the dog in a humane manner or transfer ownership of the dog to another
38 party. Housing of the dog within the facility commonly known in the commu-
39 nity to be the designated impoundment facility for stray or impounded dogs
40 shall be deemed to constitute reasonable effort for purposes of this sec-
41 tion.

42 SECTION 5. That Section [25-2806](#), Idaho Code, be, and the same is hereby
43 repealed.

1 SECTION 6. That Chapter 28, Title 25, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 25-2806, Idaho Code, and to read as follows:

4 25-2806. DOGS ATTACKING OR KILLING DOMESTIC ANIMALS -- LIABILITY FOR
5 DOMESTIC ANIMALS INJURED OR KILLED BY DOGS. (1) For purposes of this chap-
6 ter, "production animal" and "companion animal" shall have the same meanings
7 as defined in section 25-3502, Idaho Code. "Domestic animal" shall mean any
8 animal commonly kept as a pet in family households in the United States and
9 any animal commonly kept for companion or commercial purposes. Any refer-
10 ence in this chapter to "domestic animal" shall be considered as a reference
11 to both companion and production animals. "Dog" shall mean any canine or ca-
12 nine crossbreed.

13 (2) The owner of any companion animal which, while in any place where it
14 may lawfully be, has been damaged by being injured or killed by a dog without
15 provocation shall have a cause of action against the owner of the dog for the
16 damages and costs of suit, to be recovered before a court of competent juris-
17 diction.

18 (3) The owner of any production animal which, while in any place where
19 it may lawfully be, has been damaged by being injured, chased, wounded or
20 killed by a dog shall have a cause of action against the owner of the dog for
21 the amount of damages, costs of suit and attorney's fees, to be recovered be-
22 fore a court of competent jurisdiction.

23 (4) In the event a dog damages a companion or production animal, as pro-
24 vided in subsection (2) or (3) of this section, and subsequently damages a
25 domestic animal, the dog shall, in addition to any liability imposed by the
26 provisions of this section, be subject to the provisions of section 25-2811,
27 Idaho Code.

28 (5) In the event one (1) or more dogs, owned by different persons, par-
29 ticipate in damaging any domestic animal, the owners of the dog or dogs shall
30 be severally liable pursuant to the provisions of this section.

31 (6) The keeper of a dog found in violation of the provisions of subsec-
32 tion (2) or (3) of this section shall be guilty of an infraction punishable as
33 provided in section 18-113A, Idaho Code. The keeper of a dog found in viola-
34 tion of the provisions of subsection (4) of this section shall be guilty of a
35 misdemeanor punishable as provided in section 25-2813, Idaho Code.

36 SECTION 7. That Section 25-2808, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 25-2808. DOGS USED IN LAW ENFORCEMENT. Neither the state of Idaho, nor
39 any city or county, nor any peace officer employed by any of them, shall be
40 criminally liable under the provisions of section 25-280~~5~~6, Idaho Code, or
41 civilly liable in damages for injury committed by a dog when: (1) the dog has
42 been trained to assist in law enforcement; and (2) the injury occurs while
43 the dog is reasonably and carefully being used in the apprehension, arrest or
44 location of a suspected offender or in maintaining or controlling the public
45 order.

1 SECTION 8. That Chapter 28, Title 25, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 25-2809, Idaho Code, and to read as follows:

4 25-2809. DEFENSE AGAINST DOG ATTACK OF A PERSON OR DOMESTIC ANIMAL AL-
5 LOWED. (1) In the event any dog attacks, wounds, injures or chases a person or
6 domestic animal who was peaceably conducting himself or itself in any place
7 where he or it may lawfully be, any person, for the purpose of preventing im-
8 minent injury or further injury to the person or domestic animal, may use
9 such force as is required to stop the dog from continuing to attack, wound,
10 injure or chase, including killing such dog, and the owners thereof can sus-
11 tain no action for damages for the dog against the person taking such action.

12 (2) For the purposes of this chapter, a person is lawfully upon the pri-
13 vate property of another when such person is upon the property with the ex-
14 press or implied consent of the owner, provided however, consent shall not be
15 presumed when the property is fenced or reasonably posted.

16 (3) No person shall kill any dog for wounding, injuring, chasing or
17 killing poultry in a public place, upon a highway or upon the property of the
18 owner or keeper of the dog.

19 SECTION 9. That Chapter 28, Title 25, Idaho Code, be, and the same is
20 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
21 ignated as Section 25-2811, Idaho Code, and to read as follows:

22 25-2811. DANGEROUS DOGS -- AT-RISK DOGS. (1) "Dangerous dog" means any
23 dog that:

24 (a) Without provocation, and in an aggressive manner, has inflicted se-
25 rious injury on a person or kills a person;

26 (b) Has been previously found to be at-risk and thereafter aggressively
27 bites, physically attacks or endangers the safety of a person without
28 provocation; or

29 (c) Has been previously found to be at-risk, and thereafter bites,
30 physically attacks or kills a domestic animal without provocation.

31 (2) "At-risk dog" means any dog that:

32 (a) Aggressively bites a person without provocation; or

33 (b) Has been previously found by a court to have engaged in behavior in
34 violation of the provisions of section 25-2806(2) or (3), Idaho Code,
35 and thereafter bites, physically attacks or kills a domestic animal
36 without provocation.

37 (3) For purposes of this chapter, the issue of provocation shall be de-
38 termined by whether a reasonable person would expect that the conduct or cir-
39 cumstances would be likely to provoke a dog.

40 (4) For purposes of this section, "aggressively bites" shall mean any
41 bite, made without provocation, that breaks the skin and is accompanied by
42 one (1) or more of the following behaviors: baring teeth, chasing, growling,
43 snapping, pouncing or lunging.

44 (5) For purposes of this section, "serious injury" means any physical
45 injury consisting of broken bones or a permanently disfiguring injury.

46 (6) In proceedings pursuant to the provisions of this section, it is not
47 necessary for the plaintiff to show that the owner, possessor or harbinger of
48 such dog or other animal had knowledge of the fact that such dog or other an-

imal would behave in a manner consistent with the definition of "dangerous dog" or "at-risk dog."

(7) No dog may be declared to be a "dangerous dog" or "at-risk dog" where at the time an injury or damage was sustained:

(a) The dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault;

(b) A person was committing a crime or offense upon the property of the owner or custodian of the dog;

(c) A person was willfully teasing, tormenting, abusing or assaulting the dog, or in the past had teased, tormented, abused or assaulted the dog;

(d) The dog was responding to pain or injury, or protecting itself, its kennel or offspring;

(e) A person or domestic animal was disturbing the dog's natural functions such as sleeping or eating;

(f) The dog was working as a hunting dog, herding dog or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury sustained was:

(i) To a species or type of domestic animal appropriate to the work of the dog; or

(ii) To a person or domestic animal that was interfering with the dog while the dog was working in a place where it was lawfully engaged in such activity, including public lands.

(g) The injured person was intervening between two (2) or more animals;

(h) Such injury or damage was to a cat roaming free off the property of its owner, harborer or keeper, to a cat which has no owner, harborer or keeper, or to poultry.

(8) A dog shall not be found to be an "at-risk dog" for acting in a manner consistent with the provisions of section 25-2806(2), Idaho Code, if the incident occurs in a boarding kennel, a dog day-care facility, off-leash park or other designated area in which owner consent to their dogs interacting without control by leashes or other restraint devices, unless the owner of the dog can be shown to have intentionally caused the dog to attack.

(9) In the event a court finds that a dog is dangerous pursuant to the provisions of this chapter, in addition to any other penalty or liability provided in this chapter, the court may order the dog be put to death in a humane manner.

(10) In the event a court finds that a dog belonging to an owner is dangerous or at-risk pursuant to the provisions of this section, in addition to any other penalty or liability provided in this chapter, the court in its discretion may order the owner to comply with one (1) or more of the following restrictions and requirements:

(a) When outdoors, the dog shall be confined to a secure enclosure from which it cannot escape, and for which ingress and egress are controlled by the owner of the premises or owner of the dog.

(b) When off the property of the owner, and not confined to a secure enclosure, the dog shall be kept on a secure leash.

(c) The dog shall be permanently identified by means of a color photograph to be maintained in the court file, and/or a nationally registered microchip for enforcing this provision. Microchip identifica-

tion shall be reported in a timely manner by the planter to the local agency responsible for control of such dogs.

(d) The premises on which the dog is kept shall be posted with clearly visible signs stating "Beware of Dog," and may also require posting signs with a warning symbol that informs children of the presence of a dangerous or at-risk dog. Signs shall be visible from the closest roadway.

(e) Require the owner to have the dog examined by a veterinarian or a dog trainer and to comply with any reasonable treatment or training recommendations from such individuals.

(f) Order notification to the court on transfer of a dangerous or at-risk dog to another.

(11) In the event a dog, designated by a court as at-risk, does not subsequently act in a manner consistent with the provisions of subsection (1) or (2) of this section for a period of three (3) years, the restrictions and requirements imposed by the court pursuant to subsection (10) of this section shall be waived and the dog shall no longer be classified as at-risk.

(12) Any person who fails to comply with sanctions, restrictions and/or requirements imposed by the court, pursuant to the provisions of this section, shall be guilty of a violation and shall be subject to the provisions of section 25-2813, Idaho Code.

(13) In the event of a violation of the provisions of section 25-2806, Idaho Code, or the provisions of this section, an officer authorized to enforce the provisions of this chapter may take the dog into custody and place the dog in a suitable place, at a customary and reasonable expense to the owner, pending final disposition of the charge against the owner.

SECTION 10. That Chapter 28, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-2813, Idaho Code, and to read as follows:

25-2813. PENALTY FOR VIOLATIONS. The following penalty provisions shall apply to violations of section 25-2806(4), Idaho Code:

(1) A person committing a first violation shall be guilty of a misdemeanor and punished, for each offense, by a jail sentence of not more than six (6) months or by a fine of not less than one hundred dollars (\$100) or more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

(2) A person committing a second violation, within ten (10) years of the first conviction, shall be guilty of a misdemeanor and punished, for each offense, by a jail sentence of not more than nine (9) months or by a fine of not less than two hundred dollars (\$200) or more than seven thousand dollars (\$7,000), or by both such fine and imprisonment.

(3) A person committing a third or subsequent violation, within fifteen (15) years of the first conviction, shall be guilty of a misdemeanor and punished, for each offense, by a jail sentence of not more than twelve (12) months or by a fine of not less than five hundred dollars (\$500) or more than nine thousand dollars (\$9,000), or by both such fine and imprisonment.

SECTION 11. That Chapter 28, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-2814, Idaho Code, and to read as follows:

1 25-2814. LOCAL REGULATION. The provisions of this chapter shall es-
2 tablish as state law minimum standards and requirements for the control of
3 dogs and to provide for certain state crimes for violations of such minimum
4 standards and requirements. Provided however, this chapter shall not su-
5 persede or invalidate existing ordinances of local governments or prohibit
6 local governments from adopting and enforcing ordinances that provide for
7 more restrictive control of dogs, including more restrictive definitions of
8 a dangerous or vicious dog, provided such definitions are not specific to one
9 (1) or several breeds of dogs.

10 SECTION 12. That Chapter 28, Title 25, Idaho Code, be, and the same is
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
12 ignated as Section 25-2815, Idaho Code, and to read as follows:

13 25-2815. SEVERABILITY. The provisions of this chapter are hereby de-
14 clared to be severable and if any provision of this chapter or the applica-
15 tion of such provision to any person or circumstance is declared invalid for
16 any reason, such declaration shall not affect the validity of the remaining
17 portions of this chapter.